IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

AMERITAS LIFE INSURANCE CORP.,

4:17-CV-3127

Plaintiff,

MEMORANDUM AND ORDER

J.P. MORGAN CHASE & CO.,

Defendant.

This matter is before the Court on the defendant's motion to dismiss (filing 9). Specifically, the defendant, J.P. Morgan Chase Bank N.A. (named as J.P. Morgan Chase & Co.) argues that the claims asserted by the plaintiff, Ameritas Life Insurance Corporation, should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6). Filing 9.

The Court has reviewed Ameritas' complaint and the parties' briefs. The Court has also reviewed Judge Kopf's Memorandum and Order in *Ameritas Life Ins. Corp. v. Bank of America, N.A.*, which addressed essentially identical claims. No. 4:17-CV-3128 (D. Neb. filed Jan. 31, 2018). The Court agrees with Judge Kopf's thoughtful and well-reasoned decision. *See id.* Specifically, the Court agrees with Judge Kopf's conclusion that given the facts alleged, Ameritas owed no legal duty to Chase under Nebraska law,

vs.

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¹ In deciding a Rule 12(b)(6) motion, the Court will accepts as true all facts pleaded by the plaintiff, and grants all reasonable inferences from the pleadings in its favor. *Gallagher v. City of Clayton*, 699 F.3d 1013, 1016 (8th Cir. 2012). But a pleading that offers labels and conclusions or a formulaic recitation of the elements of a cause of action will not do. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. *Id.* at 678-79.

and accordingly, Ameritas has failed to state a claim for negligence. *Ameritas*, No. 4:17-CV-3128, slip op. at 6-15. The Court further agrees that to the extent Ameritas is still asserting a fiduciary duty claim, but see filing 12, Chase owed Ameritas no fiduciary duty, *id.* at 15-16.

Based on Judge Kopf's thorough reasoning, with which I agree, the Court will grant Chase's motion to dismiss.

IT IS ORDERED:

- 1. Chase's motion to dismiss (filing 9) is granted.
- 2. Ameritas' complaint is dismissed.
- 3. A separate judgment will be entered.

Dated this 14th day of February, 2018.

BY THE COURT: